

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant(s): Suzanne Dege
2211 Raccoon Point Road
Eastsound, WA

Agent: Teri Williams
PO Box 1001
Eastsound, WA 98245

File No.: PCUP00-13-0003

Request: Conditional Use Permit (CUP)

Parcel No: 171650017

Location: 2211 Raccoon Point Road
Eastsound

Summary of Proposal: An application for a conditional use permit to allow vacation rental of a single-family residence.

Land Use Designation: Rural Residential

Public Hearing: May 8, 2013

Application Policies and Regulations: SJCC 18.40.270 Vacation Rentals
SJCC 18.80.100(D) CUP Criteria

Decision: The application is approved subject to conditions.

1 **BEFORE THE HEARING EXAMINER FOR THE COUNTY**
2 **OF SAN JUAN**

3 Phil Olbrechts, Hearing Examiner

4 RE: Suzanne Dege 5 Conditional Use Permit 6 (PCUP00-13-0003)	7 FINDINGS OF FACT, CONCLUSIONS 8 OF LAW AND FINAL DECISION
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9 **INTRODUCTION**

10 The applicant has applied for approval of a conditional use permit for the vacation
11 rental of a one bedroom residence. The application is approved with conditions.

12 **TESTIMONY**

13 Lee McEnery, senior San Juan County planner, summarized the staff report. Terri
14 Williams, agent for applicant, concurred in the staff report and requested approval.

15 **EXHIBITS**

- 16 Ex. 1: Staff report.
17 Ex. 2: Application materials.

18 **FINDINGS OF FACT**

19 **Procedural:**

- 20 1. Applicant. The applicants is Suzanne Dege.
21 2. Hearing. The Hearing Examiner conducted a hearing on the subject
22 application on May 8, 2013 at 10:00 am at the Islander Bank Annex, 225 Blair Ave,
23 Friday Harbor.

24 **Substantive:**

- 25 3. Site and Proposal Description. The applicants propose the vacation rental
of a one bedroom single family home located at 2211 Raccoon Point Road,
Eastsound, WA. No accessory dwelling unit is on-site. On-site parking is available
for at least two automobiles. There is no guest house or accessory dwelling unit on
site. No outdoor advertising or food service is proposed.

1 4. Characteristics of the Area. The surrounding neighborhood is residential
in nature. There is no airport in the vicinity.

2 5. Adverse Impacts of Proposed Use. There are no adverse impacts resulting
3 from the proposed use. As conditioned, the proposed use should not interfere with
4 the residential use of neighboring properties. Noise must be kept to a minimum and a
24-hour phone number must be provided in case problems arise.

5 CONCLUSIONS OF LAW

6 **Procedural:**

7 1. Authority of Hearing Examiner. The hearing examiner is authorized to
conduct hearings and issue final decisions on conditional use permit applications.
8 San Juan County Code ("SJCC") 18.80.020 Table 8.1; 18.80.100(C).

9 **Substantive:**

10 2. Zoning Designations. Rural Residential

11 3. Permit Review Criteria. Table 3.2, SJCC 18.30.040 authorizes vacation
12 rentals in the rural residential district as a conditional use. SJCC 18.80.100(D)
13 governs conditional use criteria. SJCC 18.80.100(D)(8) requires compliance with the
14 performance standards of Chapter 18.40 SJCC. SJCC 18.40.270 contains detailed
15 standards for vacation rentals. The criteria for conditional use permits (SJCC
18.80.100(D)) and vacation rentals (SJCC 18.40.270) are quoted below and applied
through corresponding conclusions of law.

16 **Vacation Rentals of Residences Criteria**

17 **SJCC 18.40.270(A):** *No more than three guests per bedroom shall be accommodated*
18 *at any one time.*

19 4. The project is conditioned to limit the total number of guests for the single
20 bedroom to three.

21 **SJCC 18.40.270(B):** *The vacation rental of a principal residence or accessory*
22 *dwelling unit shall be operated in a way that will prevent unreasonable disturbances*
to area residents.

23 5. The conditions of approval of the permit have been imposed to prevent
24 any unreasonable disturbances. These conditions limit the number of occupants to
25 twelve guests; require posting of rules of conduct which specifically mention
prohibition of trespassing and identifying property lines; require provision of a 24-
hour contact phone number to neighbors in case problems may arise; and require
maintenance of a written log of complaints.

1 **SJCC 18.40.270(C):** *At least one additional off-street parking space shall be*
2 *provided for the vacation rental use in addition to the parking required for the*
residence or accessory dwelling unit.

3 6. Table 6.4 of SJCC 18.60.120 requires one parking space for single-
4 family homes under 550 square feet and two spaces for homes 550 square feet and
5 greater, which translates into 2 and 3 parking spaces respectively under the criterion
6 quoted above. The staff report notes that there at least two parking spaces are
7 available on-site. The size of the home is unknown. The conditions of approval will
8 require compliance with these parking requirements.

9 **SJCC 18.40.270(D):** *If any food service is to be provided the requirements for a bed*
10 *and breakfast residence must be met.*

11 7. No food service is proposed in the application.

12 **SJCC 18.40.270(E):** *No outdoor advertising signs are allowed.*

13 8. No outdoor advertising is proposed.

14 **SJCC 18.40.270(F):** *The owner or a long-term lessee may rent either the principal*
15 *residence or the accessory dwelling unit on a short-term basis (vacation rental), but*
16 *not both.*

17 9. There is no accessory dwelling unit.

18 **SJCC 18.40.270(G):** *Where there are both a principal residence and an accessory*
19 *dwelling unit, the owner or long-term lessee must reside on the premises, or one of the*
20 *living units must remain unrented.*

21 10. There is no accessory dwelling unit.

22 **SJCC 18.40.270(H):** *In all activity center land use districts, rural residential, and*
23 *conservancy land use districts, the vacation rental of a residence or accessory*
24 *dwelling unit may be allowed by provisional ("Prov") permit only if the owner or*
25 *lessee demonstrates that the residence or accessory dwelling unit in question was*
used for vacation rental on or before June 1, 1997. When internal land use district
boundaries are adopted for an activity center, this provision will apply to VR and HR
districts but not to the activity center in general.

11. Not applicable because the proposal is the first vacation rental of the
premises.

SJCC 18.40.270(I): *Vacation rental accommodations must meet all local and state*
regulations, including those pertaining to business licenses and taxes.

12. This will be required as a condition of approval.

SJCC 18.40.270(J): *Owners of vacation rentals must file with the administrator a 24-hour contact phone number.*

13. This will be required as a condition of approval.

SJCC 18.40.270(K): *The owner or lessee of the vacation rental shall provide notice to the tenants regarding rules of conduct and their responsibility not to trespass on private property or to create disturbances. If there is an easement that provides access to the shoreline, this shall be indicated on a map or the easement shall be marked; if there is no access, this shall be indicated together with a warning not to trespass.*

14. This will be required as a condition of approval.

SJCC 18.40.270(L): *Detached accessory dwelling units established under SJCC 18.40.240 cannot be separately leased or rented for less than 30 days.*

15. There is no accessory dwelling unit on the property.

Conditional Use Permits – Criteria for Approval

SJCC 18.80.100(D)(1): *The proposed use will not be contrary to the intent or purposes and regulations of this code or the Comprehensive Plan;*

16. This proposal is consistent with the SJCC for the reasons stated above. The vacation rental is consistent with the San Juan County Comprehensive Plan, which allows for tourism-related businesses and activities within the context of maintaining a diverse and balanced economy while minimizing the related negative impacts.

SJCC 18.80.100(D)(2): *The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located;*

17. The proposal will not alter the exterior appearance of the home, which is a single family home and is thus compatible and appropriate in design, character and appearance with the surrounding single family homes and applicable goals and policies thereto. The criterion is satisfied.

SJCC 18.80.100(D)(3): *The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval;*

1 18. Mitigation measures for vacation rental impacts, such as noise and
2 trespassing, have been added as conditions of approval. Therefore, the use, as
3 conditioned, should not cause significant or unreasonable adverse impacts on
4 neighbors or surrounding environment.

5 **SJCC 18.80.100(D)(4):** *The cumulative impact of additional requests for like actions
6 (the total of the conditional uses over time or space) will not produce significant
7 adverse effects to the environment that cannot be mitigated by conditions of approval;*

8 19. The property will continue to appear and function in a manner similar to
9 the existing use with no significant adverse impacts, and further similar requests will
10 not produce significant adverse impacts to the environment.

11 **SJCC 18.80.100(D)(5):** *The proposal will be served by adequate facilities including
12 access, fire protection, water, stormwater control, and sewage disposal facilities;*

13 20. The proposal is in an existing development and according to staff has been
14 shown to meet these requirements.

15 **SJCC 18.80.100(D)(6):** *The location, size, and height of buildings, structures, walls
16 and fences, and screening vegetation associated with the proposed use shall not
17 unreasonably interfere with allowable development or use of neighboring properties;*

18 21. There will be no alteration to location, size, or any other “outside” feature
19 of the existing property, so no new interference should occur as a result.

20 **SJCC 18.80.100(D)(7):** *The pedestrian and vehicular traffic associated with the
21 conditional use will not be hazardous to existing and anticipated traffic in the
22 neighborhood;*

23 22. According to the staff report, the pedestrian and vehicular traffic
24 associated with the use will not be hazardous to the neighborhood and there is nothing
25 in the record to suggest anything to the contrary. The criterion is satisfied.

SJCC 18.80.100(D)(8): *The proposal complies with the performance standards set
forth in Chapter 18.40 SJCC;*

23 23. As conditioned, and discussed above, the proposal will be in compliance
24 with SJCC 18.40.270.

25 **SJCC 18.80.100(D)(9):** *The proposal does not include any use or activity that would
result in the siting of an incompatible use adjacent to an airport or airfield (RCW
36.70.547); and*

24 24. There is no airport or airfield adjacent to this property.

1 **SJCC 18.80.100(D)(10):** *The proposal conforms to the development standards in*
2 *Chapter 18.60 SJCC.*

3 25. As an existing development site, the proposal is consistent with Chapter
4 18.60 SJCC.

5 **DECISION**

6 The application is approved as conditioned below. As conditioned below, the
7 proposal is consistent with all the criteria for a conditional use permit:

8 1. The one bedroom vacation rental shall be operated as described in the application
9 materials except as modified by these conditions.

10 2. A maximum of three guests shall occupy the unit at any one time for rentals of 30
11 days or less.

12 3. No food service is to be provided. No outdoor advertising signs are allowed.

13 4. The rentals must meet all local and state regulations, including those pertaining to
14 business licenses and taxes. Approval of this permit does not authorize the owner to
15 violate private covenants and restrictions.

16 5. No use of the property shall be made that produces unreasonable vibration, noise,
17 dust, smoke, odor or electrical interference to the detriment of adjoining properties.

18 6. A 24-hour non-message, non-recording contact number shall be provided to
19 Community Development and Planning Department (CDPD) and to all neighbors
20 within 300 feet of the property. A log of complaints shall be kept and a copy
21 provided to CDPD upon request.

22 7. Prior to any rental, a proposed written Rules of Conduct will be submitted to and
23 approved by CDPD. The Rules of Conduct shall specifically deal with trespass,
24 property boundaries, noise disturbances and any special items specific to the rental
25 unit or adjoining properties. Upon approval by CDPD a copy of the Rules of Conduct
shall be posted in the residence, given to all adult tenants and given to all property
owners within 300 feet of the residence.

8. Authorization under this permit shall be void if the use is discontinued for 24
consecutive months.

9. Upon determination by the Director of CDPD that any condition listed above has
been violated, following issuance of a Notice of Violation, the Director may, in
addition to other code enforcement remedies, revoke the conditional use permit.

10. The proposal shall meet all standards of SJCC 16.55.240 and 16.55.300.

1 11. Authorization under this permit shall be void if the use is discontinued for 24
2 consecutive months.

3 12. Failure to comply with the conditions of this permit may result in revocation.

4 13. Upon the determination by the Director of CDPD that any conditions listed above
5 have been violated, following issuance of a Notice of Violation, the Director of
6 CDPD may, in addition to its other code enforcement remedies, revoke the
conditional use permit.

7 14. The home site shall accommodate three off-street parking spaces if the home is
8 550 square feet or over in area and two off-site spaces if less than 550 square feet in
area.

9 Dated this 22nd day of May, 2013.

10 
11 Phil A. Olbrechts

12 County of San Juan Hearing Examiner
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14

15 **Effective Date, Appeal Right, and Valuation Notices**

16 Hearing examiner decisions become effective when mailed or such later date in
17 accordance with the laws and ordinance requirements governing the matter under
18 consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be
19 subject to review and approval by the Washington Department of Ecology pursuant to
RCW 90.58.140, WAC 173-27-130, and SJCC 18.80.110.

20 This land use decision is final and in accordance with Section 3.70 of the San Juan
21 County Charter. Such decisions are not subject to administrative appeal to the San
Juan County Council. See also, SJCC 2.22.100.

22 Depending on the subject matter, this decision may be appealable to the San Juan
23 County Superior Court or to the Washington State Shorelines Hearings Board. State
24 law provides short deadlines and strict procedures for appeals, and failure to timely
25 comply with filing and service requirement may result in dismissal of the appeal. See
RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to
promptly review appeal deadlines and procedural requirements and consult with a
private attorney.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

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